

**Proposed Rule as Preliminarily Adopted with IDEM's Suggested Changes (Change Sheet  
and Addendum to Change Sheet) Incorporated**  
LSA Document #09-365

**DIGEST**

Amends 329 IAC 3.1-11-2 and adds 329 IAC 3.1-11.1 concerning temporary storage and management of spent lead acid batteries. Effective 30 days after filing with the Publisher.

**HISTORY**

First Notice of Comment Period: June 3, 2009, Indiana Register  
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Date of First Hearing: March 15, 2011.

Date of Second Hearing: July 17, 2012.

Date of Third Hearing: November 20, 2012.

**329 IAC 3.1-11-2; 329 IAC 3.1-11.1**

SECTION 1. 329 IAC 3.1-11-2 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 3.1-11-2 Exceptions and additions; specific standards**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-15-2; IC 13-22-2; 40 CFR 266

Sec. 2. Exceptions and additions to standards for the management of specific hazardous waste and specific types of hazardous waste facilities are as follows:

(1) Delete 40 CFR 266.23(b) and substitute the following: "No person may apply or allow the application of used oil as defined in 329 IAC 3.1-4 to any ground surface except for purposes

of treatment in accordance with a permit issued by the department under IC 13-15-2. The use of unused waste oil or other waste material, which is contaminated with dioxin or hazardous waste or exhibits any characteristic of hazardous waste except ignitability for dust suppression or road treatment is prohibited."

(2) In 40 CFR 266.102(a)(2)(viii) dealing with applicable financial requirements for burners, the references to federal cites shall be converted as follows:

(A) 264.141 means 329 IAC 3.1-15-2.

(B) 264.142 means 329 IAC 3.1-15-3.

(C) 264.143 means 329 IAC 3.1-15-4.

(D) 264.147 through 264.151 means 329 IAC 3.1-15-8 through 329 IAC 3.1-15-10.

(3) Delete ~~40 CFR 266.80(b)~~ **40 CFR 266, Subpart G** and substitute the following: "Owners or operators of facilities that store spent lead acid batteries before reclaiming them, other than spent batteries that are to be regenerated, are subject to the following requirements:

(A) ~~Notification requirements under Section 3010 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.~~

(B) ~~All applicable provisions in the following subparts of 40 CFR 264:~~

(i) ~~Subpart A through subpart B, excluding 40 CFR 264.13.~~

(ii) ~~Subpart C through subpart E, excluding 40 CFR 264.71 and 40 CFR 264.72.~~

(iii) ~~Subpart F through subpart L.~~

(C) ~~All applicable provisions in the following subparts of 40 CFR 265:~~

(i) ~~Subpart A through subpart B, excluding 40 CFR 265.13.~~

(ii) ~~Subpart C through subpart E, excluding 40 CFR 265.71 and 40 CFR 265.72.~~

(iii) ~~Subpart F through subpart L.~~

(D) ~~All applicable provisions in 40 CFR 270 and 40 CFR 124."~~ **insert 329 IAC 3.1-**

## **11.1.**

*(Solid Waste Management Board; 329 IAC 3.1-11-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 939; errata filed Feb 6, 1992, 3:15 p.m.: 15 IR 1027; filed Oct 23, 1992, 12:00 p.m.: 16 IR 849; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2743; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 2. 329 IAC 3.1-11.1 IS ADDED TO READ AS FOLLOWS:

## **Rule 11.1. Spent Lead Acid Batteries**

### **329 IAC 3.1-11.1-1 Applicability**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-15-2; IC 13-22-2

#### **Sec. 1. (a) This rule applies to:**

(1) **retailers as defined in IC 13-11-2-194(b);**

(2) **wholesalers as defined in IC 13-11-2-267(b);**

~~(3) manufacturers;~~  
(4) (3) owners or operators of reclamation facilities;  
(5) (4) owners or operators of intermediate storage facilities; and  
~~(6) (5) owners or operators of other storage facilities;~~  
that discard, dispose of, store, or recycle spent lead acid batteries.

(b) Generators of spent lead acid batteries not listed in subsection (a) are not subject to this article provided the batteries are reclaimed.  
(Solid Waste Management Board; 329 IAC 3.1-11.1-1)

## 329 IAC 3.1-11.1-2 Definitions

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-11-2-118; IC 13-15-2; IC 13-22-2

Sec. 2. (a) The definitions in this section apply throughout this rule.

(b) "Battery breaking" or "battery cracking" means decapitating, cutting, or otherwise liberating the contents of a spent lead acid battery. This activity includes the following:

- (1) Separating any component of the battery from the other components.
- (2) Draining acid from the battery.
- (3) Removing plates and groups from the battery.

~~(c) "Battery breaking facility" means a facility that engages in battery breaking or battery cracking.~~

~~(d)~~ (c) "Component" means any of the various materials and parts of a spent lead acid battery, including, but not limited to, the following:

- (1) Plates and groups.
- (2) Rubber and ~~plastic battery chips~~ plastic case material.
- (3) Acid.
- (4) Paper cellulose material.

~~(e)~~ (d) "Intermediate storage facility" means a warehouse or other collection facility used for the temporary storage of whole spent lead acid batteries before sending the batteries to a spent lead acid battery reclamation facility. An intermediate storage facility excludes facilities belonging to the following:

- (1) Retailers.
- (2) Wholesalers.
- ~~(3) Manufacturers.~~

~~(f) "Intermittent storage" means any storage activity that occurs after reclamation has commenced but before it is completed.~~

~~(g) "Large quantity storage facility" means a facility that accumulates more than five thousand (5,000) kilograms or eleven thousand twenty-three (11,023) pounds of spent lead acid batteries.~~

~~(h)~~ (e) "Lead acid battery", as defined in IC 13-11-2-118, means a battery that:

- (1) contains lead and sulfuric acid; and
- (2) has a nominal voltage of at least six (6) volts.

~~(i)~~ (f) "Partially reclaimed material" means a solid waste material that has been processed but must be processed further before recovery is complete. ~~Partially reclaimed material results from the process of:~~

- ~~(1) battery breaking; and~~
- ~~(2) component separation;~~

~~which results in components including partially reclaimed lead bearing material known as plates and groups.~~

~~(j) "Plastic battery chips" means post consumer whole components and any pieces thereof that are constructed of plastic and used in a lead acid battery.~~

~~(k)~~ (g) "Plates and groups" means the internal components of a spent lead acid battery that are constructed of lead or lead alloys, or both. ~~Because of the concentration of leachable lead contained in them, plates and groups are:~~

- ~~(1) spent material which is solid waste; and~~
- ~~(2) hazardous waste (waste code D008).~~

~~(l) "Reclaimers" means the following:~~

- ~~(1) Battery breaking facilities.~~
- ~~(2) Smelters.~~

~~(m)~~ (h) "Reclamation facility" means a facility involved in the recovery of material from wastes of components from spent lead acid batteries, and includes:

- (1) Battery breaking facilities engaging in battery breaking or cracking.
- (2) Secondary lead smelters or smelters.

~~(n)~~ (i) "Reclamation process" ~~includes both~~ means the process of recovering components from whole spent lead acid batteries and includes, but is not limited to:

- (1) battery cracking; and
- (2) smelting;

~~of spent lead acid batteries for the purpose of recovering lead and other components.~~

~~(o) "Recycling facility" means a battery breaking facility or a secondary lead smelter.~~

~~(p) "Rubber battery chips" means post consumer whole components of batteries and pieces of batteries that are constructed of rubber and used in a lead acid battery.~~

~~(q) "Small quantity storage facility" means a facility that does not accumulate more than five thousand (5,000) kilograms or eleven thousand twenty-three (11,023) pounds of spent lead acid batteries.~~

~~(r)~~ **(j) "Spent lead acid battery", for purposes of this rule, means any lead acid battery that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing, or any lead acid battery being discarded, abandoned, disposed of, or reclaimed.**

~~(s)~~ **(k) "Staging" means holding whole spent lead acid batteries in trailers, which have arrived at a battery breaker or secondary lead smelter, or both, reclamation facility until the batteries can be transferred to a permitted storage area or moved into the processing unit reclamation process.**

**(l) "Storage," for purposes of this rule, means the holding of spent lead acid batteries, or components thereof, for a temporary period, at the end of which the batteries or components are treated, disposed of, or store elsewhere.**

~~(t)~~ **(m) "Whole spent lead acid battery" means a spent lead acid battery that has not been subjected to battery-breaking operations.**

*(Solid Waste Management Board; 329 IAC 3.1-11.1-2)*

### **329 IAC 3.1-11.1-3 Standards for retailers, and wholesalers, ~~and manufacturers~~**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-15-2; IC 13-20-16; IC 13-22-2

**Sec. 3. Retailers, and wholesalers, ~~and manufacturers~~ that store spent lead acid batteries prior to sending off-site for storage or reclamation must comply with the requirements in IC 13-20-16 and the following:**

- (1) Spent lead acid batteries must be stored in a:**
  - (A) building with a roof; or**
  - (B) covered container that is:**
    - (i) in good condition; and**
    - (ii) chemically compatible with the contents of the battery.**
- (2) Spent lead acid batteries must be stored upright and secured to prevent overturning.**
- (3) If the spent lead acid battery is not in good condition or begins to leak, the owner or operator of the facility must transfer the battery to a container that is:**
  - (A) in good condition; and**
  - (B) chemically compatible with the contents of the battery.**
- ~~**(4) Any spent lead acid battery being discarded shall be sent to:**~~
  - ~~**(A) a secondary lead smelter authorized by the department;**~~

~~(B) an intermediate storage location with the intent to deliver to a secondary lead smelter authorized by the department; or~~  
~~(C) a universal waste handler in accordance with 329 IAC 3.1-16.~~  
(Solid Waste Management Board; 329 IAC 3.1-11.1-3)

### **329 IAC 3.1-11.1-4 Standards for intermediate storage facilities**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-15-2; IC 13-22-2

#### **Sec. 4. Intermediate storage facilities shall comply with the following:**

~~(1) For small quantity storage facilities that do not accumulate more than five thousand (5,000) kilograms of spent lead acid batteries, the following:~~

~~(A) (1) If the a lead acid battery is not in good condition or begins to leak, the owner or operator must transfer the battery to a container that is:~~

~~(i) (A) in good condition; and~~

~~(ii) (B) chemically compatible with the contents of the battery.~~

~~(B) (2) Batteries Spent lead acid batteries must be stored upright and secured to prevent overturning.~~

~~(C) (3) Batteries Spent lead acid batteries must be stored in a building with a roof or stored in a covered container that is:~~

~~(i) (A) in good condition; and~~

~~(ii) (B) chemically compatible with the contents of the battery.~~

~~(D) (4) Batteries Spent lead acid batteries may not be stored for more than three hundred sixty-five (365) consecutive days.~~

~~(E) (5) Any spilled waste and contaminated equipment must be disposed or recycled in accordance with applicable solid waste rules at 329 IAC 10 and 329 IAC 11 or hazardous waste rules in this article.~~

~~(2) For large quantity storage facilities that accumulate more than five thousand (5,000) kilograms of spent lead acid batteries, the following:~~

~~(A) The storage facility owner or operator must notify the commissioner of the location of the storage site.~~

~~(B) If the lead acid battery is not in good condition or begins to leak, the owner or operator must transfer the battery to a container that is:~~

~~(i) in good condition; and~~

~~(ii) chemically compatible with the contents of the battery.~~

~~(C) Batteries must be stored upright and secured to prevent overturning.~~

~~(D) Batteries must be stored in a building with a roof or stored in a covered container that is:~~

~~(i) in good condition; and~~

~~(ii) chemically compatible with the contents of the battery.~~

~~(E) Batteries may not be stored for more than three hundred sixty-five (365) consecutive days.~~

~~(F) Any spilled waste and contaminated equipment must be disposed or recycled in accordance with applicable solid waste rules at 329 IAC 10 and 329 IAC 11 or hazardous waste rules in this article.~~

**(6) Any spent lead acid battery being discarded shall be sent to:**

**(A) a RCRA permitted reclamation facility;**

**(B) a universal waste handler in accordance with 329 IAC 3.1-16; or**

**(C) a facility collecting batteries for delivery to a recycling facility.**

**(7) If accumulating more than five thousand (5,000) kilograms or eleven thousand twenty-three (11,023) pounds of spent lead acid batteries at any time, notify the commissioner of the following within thirty (30) days after the effective date of this rule:**

**(A) location of the storage site.**

**(B) contact information, including name, address, and phone number.**

*(Solid Waste Management Board; 329 IAC 3.1-11.1-4)*

### **329 IAC 3.1-11.1-5 Standards for reclaimers**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-15-2; IC 13-22-2

**Sec. 5. (a) Owners or operators of reclamation facilities that store spent lead acid batteries before reclaiming them, other than spent batteries that are to be regenerated, are subject to the following requirements:**

**(1) Notification requirements under 329 IAC 3.1-1-11.**

**(2) All applicable provisions in the following subparts of 40 CFR 264 as the subparts are incorporated by reference in 329 IAC 3.1-9:**

**(A) Subpart A through Subpart B, excluding 40 CFR 264.13.**

**(B) Subpart C through Subpart E, excluding 40 CFR 264.71 and 40 CFR 264.72.**

**(C) Subpart F through Subpart L.**

**(3) All applicable provisions in 329 IAC 3.1-13.**

~~**(b) Battery breaking facilities that do not recycle the components on-site shall comply with all applicable generator requirements of 40 CFR 262.34 for the components of the battery that are hazardous wastes, unless an exemption pursuant to 329 IAC 3.1-5-4 referencing 40 CFR 260.30 and 40 CFR 260.31 is granted by the commissioner.**~~

**(e) (b) Trailers of incoming Whole spent lead acid batteries that are transported by trailer to reclamation facilities may be staged at the reclamation facility on an asphalt or concrete surface maintained in good condition and shall be processed, or put into permitted storage, within fourteen (14) calendar days of receipt. The following conditions shall be met for staged batteries:**

**(1) Weekly inspections of the staging area shall be performed as long as trailers remain in the area. Any indications that a trailer is leaking will require an immediate inspection to determine the source of the leak. If the batteries are the source of the leak, either the entire**

load shall be processed immediately or the ~~source of the leak must be~~ leaking batteries shall be removed from the trailer and stored in a covered container that is:

(A) in good condition; and

(B) chemically compatible with the contents of the battery.

(2) Spills must be addressed per the facility's IDEM approved contingency plan or spill response plan.

(3) Operating records will consist of documentation of inspections conducted under subdivision (1).

(c) Owners or operators of reclamation facilities that reclaim spent lead acid batteries, other than spent batteries that are to be regenerated, are subject to the following requirements:

(1) Notification requirements under 329 IAC 3.1-1-11.

(2) Unless an exemption pursuant to 329 IAC 3.1-5-4 is granted by the commissioner:

(A) Reclamation facilities shall comply with all applicable generator requirements of 40 CFR 262 as those requirements are incorporated by reference in 329 IAC 3.1-7 for partially reclaimed materials generated on-site or any other waste generated on-site that is hazardous pursuant to 40 CFR 261 as incorporated by reference in 329 IAC 3.1-6. Storage of on-site generated waste in piles is prohibited by land disposal restrictions unless stored in compliance with 40 CFR 265 Subpart DD as referenced by 40 CFR 262, as 40 CFR 262 and 40 CFR 265 Subpart DD are incorporated by reference in 329 IAC 3.1-7 and 329 IAC 3.1-10.

(B) Reclamation facilities shall obtain a permit in accordance with 329 IAC 3.1-13 for greater than 90 day storage of any on-site generated hazardous waste. Storage in piles is prohibited by land disposal restrictions unless stored in compliance with 40 CFR 264 Subpart DD as incorporated by reference in 329 IAC 3.1-9.

(C) Storage of hazardous waste received from off-site requires a permit obtained in accordance with 329 IAC 3.1-13. Storage in piles is prohibited by land disposal restrictions unless stored in compliance with 40 CFR 264 Subpart DD as incorporated by reference in 329 IAC 3.1-9.

(3) Reclamation facilities requiring a permit under 329 IAC 3.1-11.1-5(c)(2) shall submit a permit application in accordance with 329 IAC 3.1-13 within 180 days of the effective date of this rule.

~~(d) For reclamation facilities existing on the effective date of this rule, the following standards for intermittent storage during reclamation must be met for partially reclaimed wastes, unless an exemption under 329 IAC 3.1-5-4 referencing 40 CFR 260.30 and 40 CFR 260.31 is granted by the commissioner:~~

~~(1) Wastes must be stored inside a completely enclosed structure (with walls and under roof) maintained free of cracks, gaps, corrosion, or other deterioration that could allow hazardous waste to be released.~~

~~(2) Wastes must be either:~~



~~(A) stored in a container meeting the applicable requirements of 40 CFR 264, Subpart I; or~~

~~(B) stored on a base that is chemically compatible with the waste, and constructed of sufficient strength and thickness to support the weight of the waste and any personnel and heavy equipment operating on the base.~~

~~(3) If the base is impervious, such as coated concrete, it must be inspected weekly for evidence of cracks or other deterioration and any defects repaired immediately. If the base is not impervious, it must be inspected daily and any deterioration repaired within seventy-two (72) hours of discovery.~~

~~(4) For units managing free liquids or treated with free liquids, the owner or operator must include a liquid collection and removal system. The concrete base must be sloped to facilitate drainage.~~

~~(5) Waste acid and any other liquid wastes from the recycling process shall be either:~~

~~(A) sent to an on-site wastewater treatment facility; or~~

~~(B) managed in accordance with all applicable hazardous waste rules.~~

~~(6) Contaminants must be contained within the building. An area must be designated for decontamination of personnel and equipment. Any rinsate, if hazardous, must be collected and properly managed according to 40 CFR 262.34. If rinsate is not hazardous, it must be managed in accordance with applicable solid waste rules at 329 IAC 10.~~

~~(7) Fugitive dust emissions must be controlled in accordance with 40 CFR 264.1101(c)(1)(iv).~~

~~(e) All waste streams generated during the reclamation process identified as hazardous waste under 40 CFR 261 must be managed according to 40 CFR 262.34.~~

~~(f) Secondary lead smelters or lead acid battery breaking facilities commencing operations on or after the effective date of this rule must obtain a containment building permit in accordance with 40 CFR 264, Subpart DD to store partially reclaimed waste in piles, unless an exemption under 329 IAC 3.1-5-4 referencing 40 CFR 260.30 and 40 CFR 260.31 is granted by the commissioner.~~

~~(Solid Waste Management Board; 329 IAC 3.1-11.1-5)~~

### **329 IAC 3.1-11.1-6 Transporters**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-15-2; IC 13-22-2

**Sec. 6. (a) Persons who engage in transporting separated components of a spent lead acid battery must comply with 329 IAC 3.1-8.**

**(b) Facilities that receive and store separated components of spent lead acid batteries that are a hazardous waste as identified in 40 CFR 261 as incorporated by reference in 329**

**IAC 3.1-6 must comply with the manifest requirements of 40 CFR 264, Subpart E as incorporated by reference in 329 IAC 3.1-9-1.**

**(c) The requirements of 40 CFR 264, Subpart E as incorporated by reference in 329 IAC 3.1-9 do not apply to the transportation of whole spent lead acid batteries.**  
(Solid Waste Management Board; 329 IAC 3.1-11.1-6)

### **329 IAC 3.1-11.1-7 Closure and corrective action**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-12-3-2; IC 13-15-2; IC 13-22-2; IC 13-25-5-7

**Sec. 7. ~~In addition to the closure requirements incorporated by reference in this rule, the following requirements apply~~ The closure requirements are as follows:**

**(1) Permitted facilities are subject to the closure and post-closure requirements of 40 CFR 264, Subpart G, as incorporated by reference in 329 IAC 3.1-9, and corrective action for solid waste management units may be initiated at any time during the life of the facility.**

**(2) At closure of unpermitted ~~intermittent~~ hazardous waste storage areas, the owner or operator ~~must remove all waste residues and contamination from the storage area, including residue on equipment, structures, and soil~~ must comply with 40 CFR 265.111 and 265.114 as these sections are incorporated by reference in 329 IAC 3.1-10.**

**(3) If the contaminated soils cannot be completely removed, the owner or operator must prepare a written plan to close the area in accordance with IC 13-12-3-2 and submit the plan to the commissioner for approval. The written plan must provide information equivalent to a proposed work plan under IC 13-25-5-7(b). If closure requirements are addressed in an exemption received under 329 IAC 3.1-5-4, the facility must follow the closure requirements contained in the exemption.**

**(4) ~~Corrective action for solid waste management units may be initiated at any time during the life of the facility.~~**

(Solid Waste Management Board; 329 IAC 3.1-11.1-7)

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Document Key:

~~Strikeout~~= existing language that is being deleted

**Bold**= new language

**Bold and single underline**= new language since preliminary adoption

**~~Bold, and strikeout~~**= new language that was preliminarily adopted that is being deleted (the board will not be requested to final adopt this language)

LSA Changes to the proposed rule have been added to the rule language but are not marked.